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Mr. Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 – 12th Street, SW
Washington, DC 20554

Re: Request for Clarification by Enterprise Wireless Alliance,
WT Docket No. 12-17; File No. 0005007890

Dear Mr. Stone:

By letter dated December 18, 2012, the Enterprise Wireless Alliance (EWA) posed certain questions to the Commission concerning the waiver order[1] issued in conjunction with grant of an application by American Time & Signal Company (ATS) to license various customer installations as mobile stations under Call Sign WQFW336. The letter ostensibly seeks to clarify issues of interest to frequency coordinators that EWA asserts were not addressed in the waiver request submitted by ATS or in the Waiver Order.

As a preliminary matter, ATS notes that EWA makes did not frame its letter as any sort of formal pleading, nor does it purport to establish any basis for reconsideration of the Waiver Order. Accordingly, the letter at most can be considered an informal request for Commission action under Section 1.41 of the rules, 47 C.F.R. §1.41, a request that is thus entirely within the Commission's sound discretion to address or not. Additionally, ATS notes that the Commission has not requested public comment on EWA's letter. Nonetheless, since it relates to a waiver granted in connection with an application by ATS, ATS will provide its views to hopefully assist the Commission in its consideration of EWA's letter.

As a general observation, ATS points out that EWA's questions are largely misplaced because they principally question the applicability of rules governing *fixed* stations or *base/mobile* operations. In fact, of course, the additional locations were licensed to ATS as *mobile* stations under Call Sign WQFW336; and the applicability or other relevance of rules governing fixed stations and base/mobile operations thus is not apparent.

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[1] *American Time & Signal Company (Order)*, WT Docket No. 12-17, DA 12-1915, adopted November 28, 2012 and released November 29, 2012 (the "Waiver Order").

ATS' more specific comments are set forth in numbered paragraphs below corresponding to EWA's numbered paragraphs.

1. EWA's first numbered paragraph inquires whether the licensed facilities are "subject to the requirements of FCC Rule Section 90.233 governing base/mobile non-voice operations even though there is no mobile use on the channels?" In ATS' view, the answer is that Section 90.233 clearly does not apply to ATS' MO6 stations. First, EWA's assertion that "there is no mobile use on the channels" is unsupported and directly contradicted by the MO6 station designation. In fact, contrary to EWA's assertion, there is *only* mobile use (MO6) on the channels by the facilities in question. That is exactly what the Waiver Order decided. Moreover, there likewise is no *base/mobile* use by the licensed facilities by virtue of the MO6 designation, and thus Section 90.233 by its express terms is not applicable.

In this regard, EWA's reference in this paragraph to Sections 90.403(e) and 90.187(b) of the rules is equally misplaced. Section 90.403(e) is a stand-alone rule that applies by its terms wholly irrespective of whether Section 90.233 applies. ATS did not request a waiver of Section 90.403(e), nor did the Waiver Order purport to grant any such waiver. EWA thus has no plausible basis for its stated concern that the Commission has "effectively grant[ed] ATS a protected service area" for its mobile stations. Nothing in the Waiver Order relieves ATS of its obligation to share its licensed frequencies under Section 90.403(e) on the same basis as any other Part 90 licensee.

However, ATS must also note that EWA's reference to Section 90.187(b) in this paragraph suggests a misunderstanding of the full scope of Section 90.187(b) of the rules. The issue implicitly raised by EWA's reference to Section 90.187(b) is how frequency coordinators should treat ATS' licensed MO6 facilities when presented with requests to coordinate applications for trunked (FB8) co-channel facilities. ATS points out that Section 90.187(b)(1) requires that licensees of trunked facilities must have "exclusive use of their frequencies in their service area," *in addition to* meeting the loading standards of Section 90.313, before those licensees are relieved of their obligation to equip their facilities with a lock-out mechanism and to monitor their licensed frequencies before transmitting. Accordingly, absent consent under Section 90.187(b)(2), ATS interprets Section 90.187(b)(1) to mean in substance that any trunked system whose interfering contour would overlap the area of operation of a previously pending or licensed MO6 facility is required under the rules to appropriately equip its FB8 station facilities and to monitor before transmitting, just as ATS would be required to appropriately equip its MO6 facilities and to monitor before transmitting. Contrary to EWA's suggestion, in ATS' view there is nothing new or novel about how EWA should interpret or apply Sections 90.403(e) or 90.187(b) arising out of the Commission's licensing of the MO6 facilities to ATS.

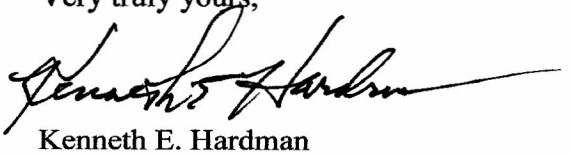
2. EWA's second numbered paragraph inquires, in the alternative, whether the licensed MO6 facilities are "governed by Rule Section 90.235 applicable to secondary fixed signaling operations?" Again, the answer is that Section 90.235 is entirely inapplicable, because the licensed operations are *mobile* (MO6) and not *fixed.* Indeed, any lingering doubt about this should be resolved by the fact that secondary fixed signaling stations are designated as FX3 sta-

tions, not as MO6 stations. In turn, since EWA's remaining questions in this paragraph are predicated on the applicability of Section 90.235 of the rules, it is unnecessary for ATS to respond separately to them.

3. Lastly, in its third numbered paragraph, EWA asserts that the licensing of the MO6 facilities to ATS "suggests that the vendor of any fixed data equipment is eligible to hold the authorization for equipment it installs and maintains for its customers, including SCADA or other systems." EWA inquires whether that is the Commission's interpretation of its rules and whether this interpretation would apply "to other operations licensed under Part 90 of the FCC Rules?" While ATS will not purport to speak for the Commission, ATS will point out that EWA's stated premise is incorrect, and in any event raises implications far beyond the scope of ATS' waiver request and the determinations made in the Waiver Order.

As noted above, the Commission has licensed the facilities in question as *mobile* stations, not as *fixed* stations, so the basic premise of EWA's series of questions is unfounded. Moreover, the Commission decided to license the facilities as MO6 facilities only after ATS described its operations in an application in some detail and made a sufficient showing that a waiver of the otherwise applicable licensing rules to allow an MO6 license designation is appropriate. It may be that other vendors, including a vendor of "fixed data equipment," can make a similar showing. If so, however, they must supply the Commission with sufficient facts in a particular case to support any such determination; EWA's suggestion that similar MO6 licensing now is or should be broadly available to "vendor[s] of any fixed data equipment," or to unspecified "other operations licensed under Part 90 of the FCC Rules," is simply unwarranted.

Very truly yours,



Kenneth E. Hardman

Attorney for American Time & Signaling Company

cc: Mr. Mark E. Crosby